

Chapter 3.56 MITIGATION IMPACT FEES

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3.56.010 Findings.

The city council of the city of Colfax does hereby find and declare as follows:

- A. The state of California, through the enactment of Government Code Section 66000 et seq. has, conferred upon local government units authority to adopt fees imposed on a specific project in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project.
- B. The imposition of mitigation impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of public facilities and service improvements necessary to accommodate such development. This must be done in order to promote and protect the public health, safety, and welfare.
- C. This chapter recognizes that all new development within the city will result in additional growth and that such growth will place additional burdens on various city facilities, infrastructure, and services. This chapter further recognizes the types of land development that will generate impacts necessitating the acquisition of land and construction of public facilities and expansion of services and infrastructure in order to meet and accommodate them.
- D. All land uses within the city should bear a proportionate financial burden in the construction and improvement of public facilities and services necessary to serve them.
- E. The mitigation impact fees established by this chapter are based upon the costs that are generated through the need for new facilities and other capital acquisition costs required, incrementally, by new development within the city of Colfax.

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- F. The fees established by this chapter do not exceed the reasonable cost of providing public facilities occasioned by development projects within the city of Colfax.
- G. The fees established by this chapter relate rationally to the reasonable cost of providing public facilities occasioned by development projects within the city of Colfax.
- H. The fees established by this chapter are consistent with the goals and objectives of the city's General Plan and are designed to mitigate the impacts caused by new development throughout the city. Mitigation impact fees are necessary in order to finance the required facilities and service improvements and to pay for new development's fair share of their construction costs.

(Ord. 488 § 1 (part), 2007)

3.56.020 Definitions.

For purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings respectively ascribed to them by this section:

- A. "Development Project" means any project undertaken for the purpose of development. "Development Project" shall include a project involving the issuance of a building permit for construction or major reconstruction or remodeling for single and multi-family residential units, commercial, or industrial buildings. The term "Development Project" shall also include permits for erection of manufactured housing or structures, and structures moved into the city.
- B. "Fee" means a monetary exaction, other than a tax or special assessment, which is charged by the city of Colfax to an applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, but does not include fees specified in Section 66477 of the California Government Code, fees for processing applications for governmental regulatory actions or approvals, or fees collected under development agreements adopted pursuant to Title 7, Chapter 4, Article 2.5 (commencing with Section 65864) of the California Government Code.
- C. "Public Facilities" includes public improvements, public services, and community amenities.

(Ord. 488 § 1 (part), 2007)

3.56.030 Establishment of fees.

The following mitigation impact fees are hereby established and imposed on the issuance of all building permits for development within the city of Colfax to finance the cost of the following categories of public facilities and improvements required by new development.

- A. Roads. A mitigation impact fee is hereby established for roads.
- B. Drainage. A mitigation impact fee is hereby established for drainage.
- C. Drainage with E-W Culverts. A mitigation impact fee is hereby established for drainage with e-w culverts.
- D. Trails. A mitigation impact fee is hereby established for trails.
- E. Parks and Recreation. A mitigation impact fee is hereby established for parks and recreation.
- F. City Buildings. A mitigation impact fee is hereby established for city buildings.
- G. City Vehicles. A mitigation impact fee is hereby established for city vehicles.
- H. Downtown Parking. A mitigation impact fee is hereby established for downtown parking.

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For each mitigation impact fee hereby established, the city council shall, by resolution: establish the specific amount of the fee; identify the purpose of the fee; identify the specific use to which the fee is to be put; determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed; determine how there is a reasonable relationship between the need for the public facility and the impacts caused by the type of development project on which the fee is imposed; and determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development project for which the fee is imposed.

(Ord. 488 § 1 (part), 2007)

3.56.040 Imposition of mitigation impact fee.

- A. Any person who, after the effective date of the ordinance codified in this chapter, seeks to develop land within the city by applying for a building permit, is hereby required to pay the appropriate mitigation impact fees established pursuant to Section 3.56.030 as the same may be applicable, in the manner, amount and for the purposes therein referenced.
- B. No permits or extension of permits for the activities referenced in subsection A shall be granted unless and until the appropriate mitigation impact fees hereby required have been paid to the city.

(Ord. 488 § 1 (part), 2007)

3.56.050 Creation of special funds.

Each fee collected pursuant to this chapter shall be deposited in a special fund created to hold the revenue generated by each such fee. Monies within each such fund may be expended only by appropriation by the city council for specific projects that are of the same category as that for which the money was collected. In this regard, the following special funds are hereby created and established for the purpose indicated:

- A. A Roads Fund is hereby established. The Roads Fund is a fund for payment of the actual or estimated costs of constructing and improving roads and appropriate study and planning costs.
- B. A Drainage Fund is hereby established. The Drainage Fund is a fund for payment of the actual or estimated costs of constructing and improving drainage facilities and appropriate study and planning costs.
- C. A Drainage c. with E-W Culverts Fund is hereby established. The Drainage c. E-W Culverts Fund is a fund for payment of the actual or estimated costs of constructing and improving drainage facilities in that area of the city requiring the construction/upgrade of an east west culvert including appropriate study and planning costs.
- D. A Trails Fund is hereby established. The Trails Fund is a fund for payment of the actual and estimated costs of constructing and improving trails within the city, including any required acquisition of land and appropriate study and planning costs.
- E. A Parks and Recreation Fund is hereby established. The Parks and Recreation Fund is a fund for payment of the actual and estimated costs of acquiring equipment, and constructing and improving the park and recreation facilities within the city, including any required acquisition of land, as well as grading, irrigation and turfing costs associated herein.
- F. A city Buildings Fund is hereby established. The city Buildings Fund is a fund for payment of the actual and estimated costs of constructing and/or improving city buildings within the city, including any required acquisition of land and appropriate study and planning costs.

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- G. A city Vehicles Fund is hereby established. The city Vehicles Fund is a fund for payment of the actual and estimated costs of city equipment.
- H. A Downtown Parking Fund is hereby established. The Downtown Parking Fund is a fund for payment of the actual and estimated costs of providing municipal parking including the acquisition of land, actual and estimated costs of constructing improvements including appropriate study and planning costs, grading and paving costs.

(Ord. 488 § 1 (part), 2007)

3.56.060 Expenditure and reimbursement of fees.

- A. Fees subject to this chapter shall be deposited, invested, accounted for and expended pursuant to California Government Code Section 66006. The fees shall be held in separate public facility funds to be expended for the purpose for which they were collected. Any interest income earned by moneys in the capital facilities fund shall also be deposited in that fund and shall be expended only for the purpose for which the fee was originally collected.
- B. For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, the city council shall make findings with respect to that portion of the account or fund remaining unexpended, pursuant to California Government Code Section 66001.

The city council shall order a refund of unexpended or uncommitted fees for which a need cannot be demonstrated, along with accrued interest, to the then current owner(s) of lots or units of the development project(s) on a prorated basis. The finance director may refund these fees by direct payment or by offsetting other obligations owed to the city by the then-current record owner(s) of the development project(s).

(Ord. 488 § 1 (part), 2007)

3.56.070 Fee payment.

The fees established pursuant to this chapter shall be paid for the property on which a development project is proposed at the time of the issuance of any required building permit, except as otherwise provided below. Provided, however, that fees imposed on residential development shall be collected in accordance with the provisions of California Government Code Section 66007, as the same presently exists or may hereafter be amended from time to time.

All fees collected shall be promptly transferred or deposited into the appropriate funds referenced in Section 3.56.050.

(Ord. 488 § 1 (part), 2007)

3.56.080 Use of funds.

- A. Funds collected from mitigation impact fees shall be used for the purpose of: 1) paying the cost of development and administration of the impact fee program, 2) paying the actual or estimated costs of construction and/or improving the public facilities within the city to which said specific fee or fees relate, including any required acquisition of land or rights-of-way therefore; 3) reimbursing the city for the development's share of those public facilities already constructed by the city or to reimburse the city for costs advanced, including without limitation, administrative costs incurred with respect to a specific public facility project; or 4) reimbursing other developers who have constructed public facilities described in the resolution adopted pursuant to Section 3.56.030, where those facilities were beyond that needed to mitigate the impact of said developer's project or projects.

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- B. In the event that bonds or similar debt instruments are issued for advanced provision of public facilities for which mitigation impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type to which the fees involved relate.
- C. Funds may be used to provide refunds as described in Section 3.56.090
(Ord. 488 § 1 (part), 2007)

3.56.090 Refund of fees paid.

If a building permit expires without commencement of construction, then the fee payer shall be entitled to a refund, without interest, of the impact fee paid as a condition for its issuance, except that the city shall retain one percent of the fee to offset a portion of the costs of collection and refund. The fee payer must submit an application for such a refund to the city clerk within thirty (30) calendar days of the expiration of the permit. Failure to timely submit the required application for refund shall constitute a waiver of any right to the refund.

(Ord. 488 § 1 (part), 2007)

3.56.100 Exemptions.

No fee shall be due for the reconstruction of any existing residential, commercial, or industrial development project that is damaged or destroyed as a result of a natural disaster, as declared by the Governor of the state of California, a local emergency declared by the city council or from fire, flood or other private calamity. Any reconstruction, or portion thereof, which is not substantially equivalent to the damaged or destroyed property shall be deemed to be new construction and shall be subject to the applicable fee.

Any claim of exemption with respect to any one or more of the fees referenced in Section 3.56.030 must be made no later than the time of application for a building permit.

(Ord. 488 § 1 (part), 2007)

3.56.110 Developer construction of facilities.

- A. In-Lieu Fee Credits for Construction of Improvements.
 - 1. A developer that has been required by the city to construct any facilities or improvements (or a portion thereof) described in the resolution adopted pursuant to Section 3.56.030 as a condition of approval of a development permit may request an in-lieu credit of the specific mitigation impact fee(s) involved for the same development. Upon request, an in-lieu credit of fees shall be granted for facilities or improvements that mitigate all or a portion of the need therefore that is attributable to and reasonably related to the given development.
 - 2. Only costs proportional to the amount of the improvement or facility that mitigates the need therefore attributable to and reasonably related to the given development shall be eligible for in-lieu credit, and then only against the specific relevant fee(s) involved to which the facility or improvement relates.
 - 3. Fees required under this chapter shall be reduced by the actual construction costs of the facilities or improvements that relate to said fees, as demonstrated by the applicant and reviewed and approved by the city. If the cost of the facilities or improvements is greater than the required relevant fees, this chapter does not create an obligation on the city to pay the applicant the excess amount.

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4. An amount of in-lieu credit that is greater than the specific fee(s) required under this chapter may be reserved and credited toward the fee of any subsequent phases of the same development, if determined appropriate by the city. The city may set a time limit for reservation of the credit.
 5. Credits shall be calculated by the city in accordance with the fee schedule set forth in the resolution to be adopted pursuant to Section 3.56.030
- B. Developer Construction of Facilities Exceeding Needs Related to Development Project. Whenever an applicant is required, as a condition of approval of a development permit, to construct any facility or improvement (or a portion thereof) described in the resolution adopted pursuant to Section 3.56.030 which facility or improvement is determined by the city to exceed the need therefore attributable to and reasonably related to the given development project, a reimbursement agreement with the applicant and a credit against the specific relevant fee which would otherwise be charged pursuant to this chapter on the development project, shall be offered. The credit shall be applied with respect to that portion of the improvement or facility that is attributable to and reasonably related to the need therefore caused by the development. The amount to be reimbursed shall be that portion of the cost of the improvement or facility that exceeds the need therefore attributable to and reasonably related to the given development. The reimbursement agreement shall contain terms and conditions mutually agreeable to the developer and the city, and shall be approved by the city attorney.
- C. Site Related Improvements. Credit shall not be given for site-related improvements, including, but not limited to, traffic signals, right-of-way dedications, or providing paved access to the property, which are specifically required by the project in order to serve it and do not constitute facilities or improvements specified in the resolution referenced in Section 3.56.030 hereof.
- D. Determination of Credit. The developer seeking credit and/or reimbursement for construction of improvements or facilities, or dedication of land or rights-of-way, shall submit such documentation, including without limitation, engineering drawings, specifications, and construction cost estimates, and utilize such methods as may be appropriate and acceptable to the city to support the request for credit or reimbursement. The city shall determine the credit for construction of improvements or facilities based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if he determines that such estimates submitted by the developer are either unreliable or inaccurate. The city shall determine whether facilities or improvements are eligible for credit or reimbursement.
- E. Time for Making Claim for Credit. Any claim for credit must be made no later than the application for a building permit. Any claim not so made shall be deemed waived.
- F. Transferability of Credit—Council Approval. Credits shall not be transferable from one project or development to another without the approval of the city council.
- G. Appeal of Determination of City. Determinations made by the city pursuant to the provisions of this section may be appealed to the city council by filing a written appeal (setting forth in detail the factual basis therefore) with the city clerk, together with a fee established by resolution of the city council, within ten (10) calendar days of the determination of the city. The appeal shall be considered by the city council at a public hearing to be held, noticed and conducted within sixty (60) days after the filing of the appeal. The decision of the city council on the appeal shall be final.

(Ord. 488 § 1 (part), 2007)

3.56.120 Review.

- A. Except for the first year this chapter is in effect, no later than one hundred and eighty (180) days following the end of each fiscal year, the finance director shall prepare a report for the city council identifying the balance of fees in the various funds established pursuant to Section 3.56.050, the facilities constructed, and the facilities to be constructed.

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- B. At a noticed public hearing, the city council shall review the report and the mitigation impact fees to determine whether the fee amounts continue to be reasonably related to the impact of development and whether the described public facilities are still needed. The council may revise the mitigation impact fees to include additional projects not previously foreseen as being needed.
- C. The report prepared by the finance director and its review by the city council, as well as any findings thereon, shall be subject to the provisions of California Government Code Section 66001(d), to the extent applicable (which shall be controlling in the event of any conflict).

(Ord. 488 § 1 (part), 2007)

3.56.130 Controlling state law.

The provisions of this chapter and any resolution adopted pursuant hereto, shall at all times be subject and subordinate to the provisions of Chapter 5 (commencing with Section 66000), Division 1, of Title 7 of the California Government Code, as the same presently exist or may hereafter be amended from time to time, to the extent the same are applicable. In the event of any conflict between the provisions of this chapter and said state law, the latter shall control.

(Ord. 488 § 1 (part), 2007)